

GREATER NEW YORK HOSPITAL ASSOCIATION STATEMENT OF SUPPORT

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TO: Members of the New York State Legislature
FROM: Greater New York Hospital Association (GNYHA)
RE: S.8992: 340B Prescription Drug Anti-Discrimination Act

Congress created the 340B program in 1992 to support providers who serve the most vulnerable by allowing them to purchase prescription drugs at significant discounts. 340B helps distressed, rural, and urban safety net providers around the country stretch scarce resources and increase access to prescription drugs—including not-for-profit and public safety net hospitals and federally qualified health centers in New York State.

Unfortunately, the trillion-dollar pharmaceutical and pharmacy benefit manager (PBM) industries have been taking creative steps to undermine this critical program. Abusive policies they have implemented include:

- Restricting the ability of providers to use contract pharmacies, which reduces patient access to covered drugs, including hard-to-get specialty medications
- Imposing onerous administrative and logistical requirements to discourage providers from participating in 340B, like mandating that they add tracking modifiers to claims. This is often impossible, since in many situations, dispensing pharmacies are unaware of a patient's 340B status at the point of sale.
- Requiring providers to disclose proprietary data

GNYHA strongly supports S.8992, which would protect safety net providers and patients by banning these discriminatory practices.

A diverse group of states have enacted laws banning these harmful pharmaceutical industry practices. [Arkansas](#), [Louisiana](#), and [West Virginia](#) have statutes prohibiting 340B discrimination by all industry players (the US Court of Appeals for the 8th Circuit recently [upheld](#) the Arkansas law after the pharmaceutical industry challenged it). [Vermont](#), [Connecticut](#), [California](#), [Iowa](#), and [Nevada](#) prohibit 340B discrimination by PBMs.

Last year, the State carved the Medicaid pharmacy benefit out of managed care, which resulted in hundreds of millions of dollars in 340B losses for safety net and community providers. S.8992 does not reverse that policy change but protects these essential providers from losing more revenue to pharmaceutical companies through drugs covered by commercial insurance and Medicare. It would also cost the state nothing.

New York can be a national leader in protecting the health care safety net by passing S.8992, which will defend the 340B drug discount program and ensure New Yorkers can continue to access critical health care.



GNYHA is a dynamic, constantly evolving center for health care advocacy and expertise, but our core mission—helping hospitals deliver the finest patient care in the most cost-effective way—never changes.